

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

v.

HANNIBAL SONNY CRUMPLER,
Defendant.

)
) Case No.:
)

) Violations:

) 18 U.S.C. § 371 – Conspiracy;

) 18 U.S.C. § 2 – Aiding & Abetting;

) 15 U.S.C. §§ 78m(a), 78m(b)(2), and 78ff;

) 17 C.F.R. § 240.13b2.2(a) - False

) Statements to Auditors;

) 18 U.S.C. §§ 981 – Forfeiture

INDICTMENT

THE GRAND JURY CHARGES:

COUNT 1

Conspiracy

Title 18, United States Code, Section 371

At all times material to this Indictment:

INTRODUCTION

1. HealthSouth Corporation (hereinafter “HealthSouth”) was engaged in the business of providing various healthcare services to the public. HealthSouth was organized as a corporation under the laws of the State of Delaware in 1984 and was headquartered in Birmingham, Alabama. By 2002, HealthSouth had grown to what was described as the nation’s largest provider of outpatient surgery, diagnostic imaging, and rehabilitative healthcare services, with approximately 1,800 locations in all 50 states, Puerto Rico, the United Kingdom, Australia, and Canada.

2. From 1986 through July 2000, defendant **HANNIBAL SONNY CRUMPLER** worked in various capacities at HealthSouth. In 1992, defendant **HANNIBAL SONNY CRUMPLER** became Controller for an operating division of HealthSouth and served in that position until leaving HealthSouth in July 2000. As Controller, defendant **HANNIBAL SONNY**

CRUMPLER was responsible for, among other things, analysis of the financial performance of his operating division. In 1997, defendant **HANNIBAL SONNY CRUMPLER** was promoted to Senior Vice President of HealthSouth. Defendant **HANNIBAL SONNY CRUMPLER** received salaries, bonuses, stock options, and other benefits from HealthSouth.

3. In July 2000, defendant **HANNIBAL SONNY CRUMPLER** became the Chief Financial Officer for Source Medical Solutions, a company started by HealthSouth and certain of its employees. Source Medical Solutions borrowed money from HealthSouth and depended on HealthSouth's financial support. Although defendant **HANNIBAL SONNY CRUMPLER** worked at Source Medical Solutions, he remained on HealthSouth's payroll until October 2002.

Compensation of the Defendant

4. From 1996 through October 2002, defendant **HANNIBAL SONNY CRUMPLER** received approximately \$3.18 million in compensation from HealthSouth, including approximately \$1 million in base salary, approximately \$330,000.00 in bonuses, and stock options valued at approximately \$1.85 million when exercised.

HealthSouth's Sale of Securities

5. HealthSouth raised millions of dollars in a variety of ways, including issuing and selling shares of stock and bonds, which became available for trading on various public markets, and borrowing money from banks. Stocks and bonds are known as "securities."

6. Thousands of individuals from all over the United States and many institutions, mutual funds, insurance companies, retirement systems, and HealthSouth employees who were members of the HealthSouth Stock Purchase Plan purchased HealthSouth's securities.

Regulation of the Sale of Securities

7. The United States Securities and Exchange Commission (the SEC), headquartered in Washington, D.C., is an agency within the executive branch of the government of the United States, and is responsible for enforcing federal securities laws.

8. In order to sell securities to the public and to permit public trading of its securities, HealthSouth was required to register its securities with the SEC. HealthSouth was also required to comply with certain laws and SEC regulations designed to protect the public and to ensure that a company's financial information was accurately recorded and fairly disclosed. HealthSouth was further required to make and keep books, records, and accounts that accurately and fairly reflected its income, expenses, assets, and liabilities, and to devise and maintain a system of internal accounting controls which would reasonably assure that these objectives were satisfied.

9. HealthSouth was an issuer of a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934, 15 U.S.C. § 781, and was required to and did file various periodic reports and other documents with the SEC, which included representations concerning its revenues, net income and losses, earnings, the value of its assets, and the amount of its liabilities. These documents included:

- a. Forms S-3, S-4, and S-8 registration statements filed in connection with the registration of HealthSouth's stocks and bonds;
- b. Forms 8-K detailing material events;
- c. Forms 10-Q, which included the quarterly report of its financial condition and the results of its operations; and
- d. Forms 10-K, which included the annual report of its financial condition and the results of its operations.

10. HealthSouth filed its Forms 10-K, 10-Q, 8-K, S-3, S-4, and S-8 with the SEC in Washington, D.C. These documents were available for public review.

Accounting Principles and Practices

11. Financial statements produced by HealthSouth included both an Income Statement and a Balance Sheet.

The Income Statements reported, among other things, the company's revenue and expenses incurred during a stated period of time, usually a three-month period or quarter, or a twelve-month period or year. The company's earnings per share (EPS) was generally calculated by dividing its net income by the number of its outstanding shares of stock.

The Balance Sheets reported, among other things, the value of the company's assets and amount of its liabilities at the end of a reporting period, usually the last day of a quarter or the last day of a year.

12. As is customary in the healthcare industry, HealthSouth billed "third party payors," such as insurance companies, Medicare, and Medicaid, for healthcare services at amounts greater than it expected to collect. The total amount billed was entered into gross revenue accounts. The amount HealthSouth did not expect to collect was entered into separate "contractual adjustment" accounts. The amount in the contractual adjustment accounts was subtracted from the amount in the gross revenue accounts to help calculate net income.

13. Ernest & Young LLP was the independent accounting firm retained by HealthSouth to audit HealthSouth's annual financial statements. As part of the audit process, Ernst & Young requested that certain companies provide written, independent confirmation of the amounts they owed HealthSouth. This was accomplished through audit confirmation letters which asked the recipient to examine its records and confirm the amount it owed HealthSouth. Once the confirmation letter was signed, the recipient was to return it to Ernst & Young.

Dissemination of Financial and Patient Statistical Information

14. Income Statements and Balance Sheets, which reflected the results of its operations and financial condition, were included in and with various documents HealthSouth filed with the SEC. HealthSouth also distributed Income Statements, Balance Sheets, Patient Statistical Information, and other financial information reflecting income, expenses, and assets to HealthSouth's Board of Directors, employees, stockholders and bondholders, potential stockholders and bondholders, bond underwriters, market analysts, bankers, the media, and other interested parties, by a variety of means including conference calls, media interviews, press releases, internet web sites, conventions, investor meetings, and corporate meetings.

15. The Board of Directors, employees, stockholders and bondholders, potential stockholders and bondholders, bond underwriters, market analysts, bankers, the media, and other interested parties relied on the information distributed by HealthSouth in making investments and other decisions.

Internal Financial Reports

16. The corporate accounting staff at the company's headquarters building in Birmingham, Alabama, maintained HealthSouth's corporate books and records, including its general ledger and supporting databases. The staff used the general ledger and databases to capture the company's financial information. The staff also used the general ledger and databases to generate internal monthly, quarterly, and annual reports which showed HealthSouth's current financial information, particularly its revenue, expenses, and net income and losses.

17. During the period from 1996 through at least March 2002, these internal reports showed that HealthSouth often failed to produce sufficient net income to meet its quarterly and annual "guidance," the consensus of Wall Street analysts' estimates, and HealthSouth's internal budgets. Senior officers of HealthSouth would refer to such failures as "not making the numbers," and they believed that revealing the company's actual performance and shortfalls to the investing public and analysts would adversely affect the market price of HealthSouth's stock.

The Audit Confirmation Letters

18. During the audit of HealthSouth's 2001 annual financial statements, Ernst & Young sought to confirm the amount of debt that Source Medical Solutions owed HealthSouth. Two audit confirmation letters were sent to the defendant **HANNIBAL SONNY CRUMPLER**, one for each account receivable of Source Medical Solutions that appeared on the books of HealthSouth. The confirmation letters asked the defendant to compare the amounts shown on the letters with the records of Source Medical Solutions as of December 31, 2001, and note any discrepancies.

19. As of December 31, 2001, the records of Source Medical Solutions reflected that Source Medical Solutions owed HealthSouth approximately \$44,000,000.00.

20. On or about February 28, 2002, defendant **HANNIBAL SONNY CRUMPLER** signed and submitted to Ernst & Young the first audit confirmation letter for \$46,424,359.79, stating: "There are a couple of invoices being reconciled but they are not material. We agree that the amount is substantially correct." Ernst & Young rejected this version of the first audit confirmation letter and the defendant **HANNIBAL SONNY CRUMPLER** signed and submitted

another version of the first audit confirmation letter on or about March 11, 2002, stating: "We are currently in the process of reconciliation and the above amount rep. by HealthSouth we believe to be within 100,000."

21. The second audit confirmation letter was for \$34,911,855.00. On or about March 10, 2002, defendant **HANNIBAL SONNY CRUMPLER** signed and submitted the second audit confirmation letter, stating: "We haven't reconciled the above amount but we anticipate it to be within 30 - 35m."

The Conspiracy

22. From in or about 1996, to in or about April 2002, the exact dates being unknown to the Grand Jury, within Jefferson County in the Northern District of Alabama, and elsewhere, defendant

HANNIBAL SONNY CRUMPLER

knowingly and willfully conspired with other persons, known and unknown to the Grand Jury, to commit offenses against the United States, that is to:

(a) devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, and to execute and attempt to execute the scheme and artifice by placing and causing to be placed in a post office and an authorized depository for mail matter to be sent and to be delivered by the United States Postal Service, and to deposit and cause to be deposited matter to be sent and delivered by a private and commercial interstate carrier, in violation of Title 18, United States Code, Sections 1341, 1346 and 2;

(b) devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, and to execute the scheme and artifice by transmitting and causing to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures and sounds, in violation of Title 18, United States Code, Sections 1343, 1346 and 2;

(c) make and cause others to make untrue, false and misleading statements of material fact in reports and documents required to be filed under the Securities and Exchange Act of 1934 and the rules and regulations thereunder, in violation of Title 15, United States Code, Sections 78m(a) and 78ff and Title 17, Code of Federal Regulations, Section 240.13a-1; and Title 18, United States Code, Section 2;

(d) falsify and cause others to falsify books, records and accounts of HealthSouth in violation of Title 15, United States Code, Sections 78m(b)(2)(A) & (B), 78m(b)(5) and 78ff; Title 17, Code of Federal Regulations, Section 240.13b2-1; and Title 18, United States Code, Section 2;

(e) make and cause others to make material false and misleading statements, and omit to state and cause others to omit to state material facts necessary in order to make the statements made, in light of the circumstances under which the statements were made, not misleading, to HealthSouth's outside auditors in connection with the preparation and filing of documents and reports required to be filed with the SEC, in violation of Title 15, United States Code, Sections 78m(a), 78m(b)(2) and 78ff; Title 17, Code of Federal Regulations, Section 240.13b2-2; and Title 18, United States Code, Section 2; and

(f) use and employ and cause others to use and employ a device, scheme and artifice to defraud, utilizing the means and instrumentalities of interstate commerce, the mails, and the facilities of a national securities exchange, in connection with the purchase and sale, of HealthSouth's securities, in violation of Title 15, United States Code, Sections 78j(b) and 78ff and Title 17, Code of Federal Regulations, Section 240.10b-5; and Title 18, United States Code, Section 2.

Manner and Means of the Conspiracy

23. It was part of the conspiracy that defendant **HANNIBAL SONNY CRUMPLER** and other co-conspirators who were officers and employees of HealthSouth would and did participate in a scheme to fraudulently inflate the company's operating results and financial condition, including the net income and earnings per share that HealthSouth reported to its Board of Directors, employees, the SEC, bond underwriters, market analysts, bankers, the media, and the investing public.

24. It was further part of the conspiracy that false and fraudulent entries would be made to HealthSouth's books and records, which added approximately \$2.64 billion in fictitious income to the books and records between 1996 and 2002.

25. It was further part of the conspiracy that defendant **HANNIBAL SONNY CRUMPLER** and other co-conspirators would and did fraudulently inflate HealthSouth's financial results in order to increase HealthSouth's stock price.

26. It was further part of the conspiracy that defendant **HANNIBAL SONNY CRUMPLER** and other co-conspirators would and did cause HealthSouth to issue fraudulently inflated financial reports to induce stock and bond investors, bank lenders, and businesses to invest in HealthSouth's securities and to provide funds and other assets to HealthSouth.

27. It was further part of the conspiracy that defendant **HANNIBAL SONNY CRUMPLER** and other co-conspirators would and did meet and discuss specific methods for falsifying HealthSouth's books, records, and financial reports in order to fraudulently inflate its reported income, operating results, and financial condition.

28. It was further part of the conspiracy that co-conspirators, including members of HealthSouth's corporate accounting staff, would and did make and cause to be made, false entries to HealthSouth's income statement accounts, including the contractual adjustment accounts, for the purpose of artificially and materially inflating net income and earnings per share on the publicly reported Income Statements. Certain co-conspirators would and did refer to the false entries as "filling the hole" or "filling the gap."

29. It was further part of the conspiracy that once false entries were made to various accounts to increase income, one or more co-conspirators, including members of HealthSouth's corporate accounting staff, in order to "balance" the books, would and did make and cause to be made, corresponding false entries to balance sheet accounts in HealthSouth's books and records, including, but not limited to: (a) Property, Plant and Equipment ("PP&E") accounts; (b) cash accounts; (c) inventory accounts; (d) intangible asset (goodwill) accounts; (e) suspense accounts; and (f) receivable accounts.

30. It was a further part of the conspiracy that members of HealthSouth's corporate accounting staff would and did falsely inflate an account receivable of Source Medical Solutions on the books of HealthSouth by tens of millions of dollars.

31. It was further part of the conspiracy that defendant **HANNIBAL SONNY CRUMPLER** would and did make false representations to, and withhold information from, accountants employed by HealthSouth to audit and examine HealthSouth's financial statements.

32. It was further part of the conspiracy that co-conspirators would and did publicize and disseminate the fraudulently inflated financial information through, among other means, the United States mail and interstate wire communications.

33. It was further part of the conspiracy that certain co-conspirators would and did sign, and caused to be filed with the SEC in Washington, D.C., Forms 10-K and other documents which contained materially false and fraudulent information about HealthSouth's income, operating results, financial condition, and earnings per share.

Overt Acts

In furtherance of the conspiracy and to achieve the objects thereof, the conspirators committed and caused to be committed the following acts, among others, in the Northern District of Alabama and elsewhere:

34. Between approximately 1996 and 2000, defendant **HANNIBAL SONNY CRUMPLER** and co-conspirators met periodically to discuss specific methods for falsifying HealthSouth's books, records, and financial reports.

35. Between approximately 1996 and 2000, defendant **HANNIBAL SONNY CRUMPLER** periodically would help co-conspirators find false entries that could be made to the books, records, and financial statements of his operating division.

36. In early 2002, co-conspirators who were members of HealthSouth's accounting staff falsely inflated an account receivable of Source Medical Solutions on the books of HealthSouth by tens of millions of dollars.

37. On or about March 5, 2002, defendant **HANNIBAL SONNY CRUMPLER** met with a co-conspirator who was a Senior Officer of HealthSouth and agreed to sign a false audit confirmation letter indicating to Ernst & Young that Source Medical Solutions owed HealthSouth more than was reflected on the books and records of Source Medical Solutions.

38. On or about March 10, 2002, defendant **HANNIBAL SONNY CRUMPLER** signed the second audit confirmation letter knowing that it was false in that it stated that, as of December 31, 2001, the records of Source Medical Solutions showed that Source Medical Solutions owed HealthSouth a debt that Source Medical Solutions anticipated to be within \$30 million - \$35 million.

39. On or about March 10, 2002, defendant **HANNIBAL SONNY CRUMPLER** caused the second audit confirmation letter to be sent to Ernst & Young.

All in violation of Title 18, United States Code, Section 371.

COUNT 2

False Statements to Auditors

Title 15, United States Code, Sections 78m(a), 78m(b)(2), and 78ff;

Title 17, Code of Federal Regulations, Section 240.13b2-2(a);

Title 18, United States Code, Section 2

1. The Grand Jury repeats and re-alleges the allegations contained in paragraphs 1 through 21 of Count 1 of this Indictment as though fully set forth herein.

2. The Grand Jury repeats and re-alleges the allegations contained in paragraphs 23 through 39 of Count 1 of this Indictment by reference as though fully set forth herein.

3. On or about March 10, 2002, within Jefferson County in the Northern District of Alabama, and elsewhere, defendant

HANNIBAL SONNY CRUMPLER

knowingly and willfully aided and abetted officers of HealthSouth, an issuer of a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934, in making and causing to be made materially false and misleading statements, and omitting to state material facts necessary in order to make statements made, in light of the circumstances under which the statements were made, not misleading, to accountants of HealthSouth in connection with the audit and examination of the financial statements of HealthSouth as required by law to be made and the preparation and filing of documents and reports required to be filed with the SEC pursuant to rules and regulations enacted by the SEC.

4. Specifically, defendant **HANNIBAL SONNY CRUMPLER** submitted and caused to be submitted to Ernst & Young an audit confirmation letter that he knew was materially false; to wit, the second audit confirmation letter indicated that, as of December 31, 2001, the records of Source Medical Solutions showed that Source Medical Solutions owed HealthSouth a debt that Source Medical Solutions anticipated to be within \$30 million - \$35 million when, as the defendant well knew and believed, this amount was materially inflated.

All in violation of Title 15, United States Code, Sections 78m(a), 78m(b)(2), and 78ff; Title 17, Code of Federal Regulations, Section 240.13b2-2(a); and Title 18, United States Code, Section 2.

COUNT 3

Criminal Forfeiture

Title 18, United States Code, Section 981(a)(1)(C)
and Title 28, United States Code, Section 2461(c)

1. Counts One and Two of this Indictment are incorporated by reference herein for the purpose of alleging criminal forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

Forfeiture

2. As a result of the foregoing offenses alleged in Counts One and Two of this Indictment, defendant

HANNIBAL SONNY CRUMPLER

shall forfeit to the United States any property constituting or derived from proceeds traceable to said violations. Such forfeitable interests include, but are not limited to the aggregate sum of \$2,177,812.50, together with all interest and proceeds derived therefrom.

If any of the property described above as being subject to forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), as a result of any act or omission of defendant **HANNIBAL SONNY CRUMPLER**—

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred to, sold to, or deposited with a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property that cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of defendant **HANNIBAL SONNY CRUMPLER**, up to the value of the above forfeitable property.

All pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

SENTENCING ALLEGATIONS

In committing the offenses charged in counts 1 and 2 of the Indictment, defendant
HANNIBAL SONNY CRUMPLER:

- (1) Abused his position of public and private trust, as described in U.S.S.G. § 3B1.3;
- (2) Committed offenses in which the loss exceeded \$100 million, as described in U.S.S.G. § 2B1.1(b)(1)(N);
- (3) Committed offenses through mass marketing, as described in U.S.S.G. § 2B1.1(b)(2)(A).
- (4) Committed offenses which involved a scheme to defraud 50 or more victims, as described in U.S.S.G. § 2B1.1(b)(2)(B); and
- (5) Committed offenses which involved sophisticated means, as described in U.S.S.G. § 2B1.1(b)(8).